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Agency Secretary

Air Resources Board

Alan C. Lloyd, Ph.D.
Chairman

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Gray Davis
Governor

November 21, 2002

Dear Light Duty Vehicle Manufacturers:

Application of Early Introduction Multipliers to Zero-Emission Vehicles (ZEV)

This letter is intended to respond to inquiries the Air Resources Board (ARB or Board) has received regarding the timeframe under which the placements of 2002 model year zero-emission vehicles (ZEV) would have qualified for early introduction multipliers under the "2001 ZEV Amendments" ultimately adopted April 12, 2002. These amendments were approved by the Office of Administrative Law on May 24, 2002. Among other things, the amendments added section 1962(d)(3)(A), title 13, California Code of Regulations, which provides that each 2002 model year ZEV that is placed in service in California qualifies for a ZEV phase-in multiplier of 4.0.

As you know, the percentage ZEV requirements of the ARB's ZEV regulation were scheduled to become applicable starting with the 2003 model year. On June 11, 2002, a federal district judge issued a preliminary injunction that enjoins the ARB's Executive Officer from enforcing the 2001 ZEV Amendments with respect to the sale of new motor vehicles in the 2003 or 2004 model years, pending final resolution of the case. Although we have appealed issuance of the preliminary injunction, it remains in effect at this time. Questions have been raised about how the ARB had intended the early introduction multiplier to be applied for 2002 model-year ZEVs, in case the preliminary injunction is lifted or the issue becomes relevant in the context of amendments to the ZEV requirements (depending of course on the terms of the credit provisions in any future amendments). All parties would be best served by guidance provided prior to the end of the 2002 model year, and I am accordingly providing such guidance in this letter. However, I emphasize that nothing in the letter is intended as enforcement of the ZEV regulation for the 2003 and 2004 model years. The 2001 ZEV Amendments have not been enforced with respect to the sale of 2003 or 2004 model year vehicles since issuance of the preliminary injunction, and that remains the case today.

The primary rationale for the ZEV phase-in multipliers was to further encourage placement of ZEVs in the early years of the program. The fact that the 4.0 credit multiplier for 2002 model-year ZEVs placed in service is more than three times the 1.25 credit multiplier for 2003 model-year ZEVs placed in service reflects an obvious intent to reward ZEVs that are produced and placed in service prior to the start of the

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California Environmental Protection Agency

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percentage ZEV requirements in the 2003 model year. This intent would be frustrated if manufacturers were allowed to receive the full placed-in-service credit for a 2002 model year ZEV even though the vehicle is not placed in service until well into 2003 or even later. Accordingly, to effectuate the Board's intent we would interpret section 1962(d)(3)(A) to allow a 2002 model-year ZEV to receive the 4.0 placed-in-service multiplier only if it is placed in service during the 2002 model year or within three months of the end of the 2002 model year – i.e. by the end of March 2003. This allows an adequate time for placement of vehicles that have been produced during the 2002 model year. The same principle would also apply in subsequent model years.

If you have any questions or if I can be of assistance regarding this issue, please call me at (916) 445-4383, or call Mr. Jack Kitowski, Chief, On-Road Controls Branch, at (916) 445-6102.

Sincerely,

/s/

Michael P. Kenny
Executive Officer

cc: Mr. Jack Kitowski
Mobile Source Control Division